STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 99-827

February 16, 2000

ENERGY ATLANTIC
Requests for Waivers From Provisions
of Chapter 306(2)(B)(2) and (4)

ORDER

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

SUMMARY

In this Order, we deny Energy Atlantic's (EA) request for a waiver from certain provisions of Chapter 306, the Commission's rule on uniform information disclosure.

BACKGROUND

On November 19, 1999, EA filed a request for a waiver from compliance with section 2(B)(2) and section 2(B)(4) of Chapter 306. Section 2(B)(2) requires the disclosure label to contain the average unit price for generation in cents per kWh for various usage levels. EA states that for customers with demands of 100 kW or less, it will offer service primarily on a fixed cost basis. As a result, the average unit price will not change for these customers during the term of the contract. Thus, EA argues that quarterly production of this information on the disclosure label will be repetitious, will not provide customers with any new information, and will cause unnecessary expense without providing additional benefit. Instead, EA proposes to give its customers this information just once in the Terms of Service Document required under Chapter 306, § 2(D).[1]

Section 2(B)(4) requires competitive providers to disclose certain information regarding the fuel mix and emissions characteristics of its resource portfolio. EA requests that it begin making these disclosures in June 2000, instead of March 2000, as currently required. EA explains that June 2000 is the earliest possible date that it could provide a reasonable estimate of the fuel and emissions characteristics of its resource mix. EA asserts that using the system characteristics would not provide useful information to customers and that the system operators (ISO-NE and the Northern Maine ISA) have not indicated that system characteristics will be available prior to March 2000.

Based on these two requested waivers, EA asks that it be allowed to delay providing any disclosure labels to customers until June 2000.

[1] EA specifies that the waiver would apply only to customers with a fixed price per unit charge. For customers whose average per unit charge varies, EA would provide the quarterly disclosure.

On December 21, 1999, the Commission issued a Notice of Request for Waiver and Opportunity to Comment regarding the EA filing. The Independent Energy Producers of Maine (IEPM) filed comments, stating that EA will know fuel and emissions characteristics because it will be using the supply Engage Energy has purchased from Central Maine Power Company (CMP) in its Chapter 307 auction.

DISCUSSION

For the following reasons, we deny EA's request for a waiver from provisions of Chapter 306. The purpose of the disclosure label requirement is to allow customers to easily compare among different generation service offerings. *Order Provisionally Adopting Rule*, Docket No. 98-708 at 3-6 (Feb. 23, 1999). By requiring that the label be provided quarterly, it is hoped that customers will become accustomed to the label and will use it to make comparisons among competitive providers. The rule requires that the label would be sent each quarter even if the information on the label remains unchanged. The rule could have easily contained a provision stating that labels need not be sent if the information has not changed, but no such provision was included. In addition, we note that our provisionally adopted rule required the label to be distributed semi-annually. The Legislature, however, directed that the final rule contain the quarterly requirement, Resolves 1999, ch. 34, thus signaling a policy in favor of frequent distribution of the disclosure label. For these reasons we deny EA's request to be relieved from the requirement that it include price information on the quarterly labels upon its rationale that the information will not change and is included in the Terms of Service Document.

We also deny EA's request that it not provide the label until June 2000 because it will not be able to accurately estimate its resource portfolio. At the outset of retail access, EA will not be in any different position from other providers who must estimate their resource portfolio before establishing their customer base. The Rule specifically provides for this type of situation. Section 2(B)(4)(a)(ii) of the Rule states:

> If a competitive electricity provider has operated for less than three months, the competitive electricity provider shall report a reasonable estimate of its resource portfolio based on the competitive electricity provider's known resources, and the average regional system mix.

If EA does not have any known resources, it may use the average system mix. Contrary to EA's assertion, a label with the average system mix can be useful even if the actual resources turn out to be different, because a "green marketer" with its known resources likely would have a label that compares favorably to the average system mix. Additionally, we agree with the IEPM that EA will know a large portion of the resource mix that it will use to provide standard offer service in CMP's service territory. Finally, we note our expectation that, in the near future, we will issue a document that provides

guidance to providers in complying with Chapter 306 in light of the apparent lack of information regarding the current average system mix.

Dated at Augusta, Maine, this 16th day of February, 2000.

BY ORDER OF THE COMMISSION

_____

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
Nugent
Diamond

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.

2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Civil Procedure, Rule 73, et seq.

3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.